

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**G. DAVID IVERSON
and ACCESS WITH SUCCESS, INC.,**

Plaintiffs

v.

**CITY OF BOSTON,
MASSACHUSETTS,**

Defendant

CIVIL ACTION NO.: 04-CV-11825-NMG

**AFFIDAVIT OF PETER A. SPALLUTO IN SUPPORT
OF THE PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

On his oath, Peter A. Spalluto says and deposes as follows:

1. I am a member of Access with Success, Inc.
2. I am 58 years of age. In 1966, at the age of 20, I suffered a spinal cord injury and was rendered a quadriplegic in a swimming pool accident. I use an electric wheelchair for ambulation.
3. I reside in Pompano Beach, Florida. I usually come to Boston more than once a year to visit friends or to attend conferences and seminars. I intend to return to Boston. I plan to visit Boston between August and October 2005 to attend a seminar at Harvard University. I also intend to visit restaurants, antique bookstores and coin stores in Boston itself on my visit in 2005.
4. On September 7, 2004, I was in Boston. I planned to have lunch at a restaurant called Bakey's on Broad Street. I called ahead to find out whether I could get in with my wheelchair and the person who took my call told me that I could. When I arrived, however, I found there was no way to get in the restaurant.

5. I decided to go to a pub down the street from Bakey's. It was about one block away on the same side of Broad Street.
6. I had to travel on the roadway in traffic. I could not use the sidewalk on Bakey's side of Broad Street. There were no curb cuts. The sidewalk had uneven surfaces and changes in slope and elevation. Parts of it were made of large uneven blocks of granite. It was practically impossible to travel in an electric wheelchair on the sidewalk. It was unsafe.
7. I would like to see this situation corrected so that people in wheelchairs are able to use sidewalks on Broad Street and in other parts of Downtown Boston.

**SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 3rd DAY OF
DECEMBER, 2004**

/s/ Peter A. Spalluto
Peter A. Spalluto

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon the attorney of record for each party by mail pursuant to Fed. R. Civ. P. 5.

/s/ Nicholas S. Guerrero
Nicholas S. Guerrero

Dated: 12/6/04